

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 6636

IN THE MATTER OF:

Served May 2, 2002

Application of WESTVIEW MEDICAL & )  
REHABILITATION SERVICES, P.C. INC., )  
for a Certificate of Authority -- )  
Irregular Route Operations )

Case No. AP-2001-50

This matter is before the Commission on applicant's request for reconsideration of Commission Order No. 6557, served March 4, 2002. Order No. 6557 denied applicant's motion for waiver of Commission Regulation No. 66, which limits an applicant to a maximum of 180 days to comply with the conditions of a grant of authority. Applicant had failed to comply within 180 days with two of the conditions of the grant specified in Order No. 6308, served August 1, 2001: filing an effective contract tariff and filing an acceptable WMATC Certificate of Insurance and Policy Endorsement (WMATC Insurance Endorsement).

We denied applicant's motion for additional time because our financial fitness finding had grown stale, applicant could offer no tangible proof that it would soon be in full compliance with the conditions prescribed in Order No. 6308, and we did not wish to reward applicant's lack of diligence in obtaining the necessary insurance coverage. Applicant responded by filing an application for reconsideration on March 26, 2002, supported by an effective tariff and acceptable WMATC Insurance Endorsements.

Under Title II of the Compact, Article XIII, Section 4(a), a party to a proceeding affected by a final order or decision of the Commission may file within 30 days of its publication a written application requesting Commission reconsideration of the matter involved, and stating specifically the errors claimed as grounds for the reconsideration.

Without deciding the issue of whether Order No. 6557 is a final order within the meaning of the statute, we find that the application fails to allege any error on the part of the Commission and thus does not meet the statutory standard. However, because the application is supported by an effective tariff and acceptable WMATC Insurance Endorsements, we will reopen this proceeding on our own initiative to consider applicant's new evidence.<sup>1</sup>

Applicant's evidence satisfies the remaining requirements of Order No. 6308 but does nothing to address the staleness of our financial fitness finding or applicant's lack of diligence. We therefore will direct applicant to do the following.

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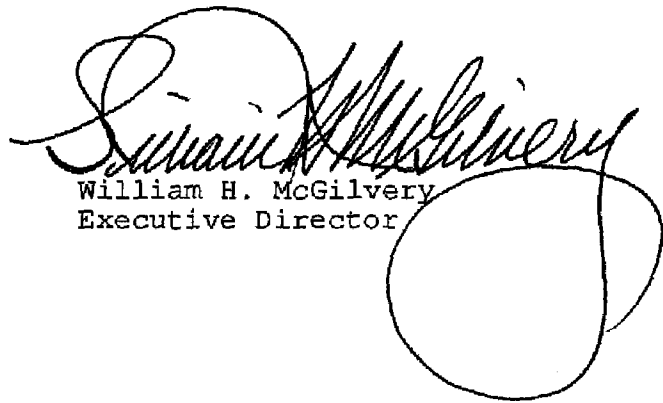
<sup>1</sup> See In re Safe Haven, Inc., No. MP-97-71, Order No. 5200 (Sept. 17, 1997) (reopening proceeding and reinstating certificate of authority).

Applicant shall file an updated balance sheet and projected operating statement so that we may assess applicant's financial fitness anew. If applicant succeeds in establishing that it is still financially fit, then we will issue the certificate of authority granted in Order No. 6308, subject to a one-year period of probation, during which time applicant's authority may be revoked for any willful violation of the Compact or the Commission's Rules and Regulations and Orders thereunder, regardless of the severity of the infraction.

THEREFORE, IT IS ORDERED:

1. That the application for reconsideration is dismissed.
2. That this proceeding is reopened on the Commission's own initiative.
3. That within 30 days from the date of this order applicant shall file an updated balance sheet dated on or after December 31, 2001, and an updated projected operating statement for the first twelve months of WMATC operations.
4. That no extensions of the filing deadline shall be granted.
5. That applicant may not transport passengers for hire between points in the Metropolitan District unless and until otherwise ordered by the Commission.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS YATES, LIGON, AND MILLER:

  
William H. McGilvery  
Executive Director